

Appeal Decision

Site visit made on 13 November 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref. APP/Z4310/D/23/3328215 10 Cottonwood, Liverpool L17 7ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr I Baxter against the decision of Liverpool City Council.
 - The application ref. 23H/0503, dated 16 March 2023, was refused by notice dated 30 May 2023.
 - The development proposed is *"Erection of a one metre high wooden boundary fence [in keeping with existing side and back garden fencing] to the front right side of the property"*.
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Decision

1. The appeal is dismissed.

Background

2. The subject vertically-boarded timber fence, which is about 1 m high and supported by concrete posts, divides the front garden of the appeal property from the front garden of the adjacent house (12 Cottonwood) and reaches close to the back of the footway.
3. The fencing was completed in November 2022. The application was made retrospectively but this has no bearing on the planning merits of the case.

Main issue

4. In deciding whether planning permission ought to be granted for the appeal proposal, I consider the main issue to be the effect of the boundary fence upon the character and appearance of this residential area.

Reasons

5. Cottonwood is a cul-de-sac of detached dwellings dating from the late 20th century. Along with the adjacent similar culs-de-sac of Thorntree Close and Thistledown Close which I also looked at, Cottonwood lies within a residential area originally laid out to open plan principles. I found that the preponderance of open front boundaries, the variety of vegetation in some of the front gardens and the general absence of man-made boundary treatments forward of the dwellings give a soft visual impression to all 3 of these local street scenes.
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6. This open plan layout was intended to be maintained because a planning condition is in place restricting permitted development rights such that no gates, fences, walls or other means of enclosure can be erected forward of the dwellings without the express permission of the local planning authority. This distinctive open and uncluttered layout was an integral part of the original design and it remains substantially intact.
7. I noted the boundary fence between the front gardens of 5 and 7 Cottonwood opposite the appeal site and the brick wall separating the front gardens of 3 and 5 Thorntree Close. No planning history has been provided to suggest that these boundary treatments benefit from planning permission. As such, their presence carries limited weight. The fencing opposite the appeal site stops well short of the footway, so it is not identical to what has been constructed at no. 10. Plus, across an estate of about 60 dwellings in the 3 culs-de-sac combined, the examples provided are found at only a tiny proportion of the dwellings.
8. The appellant points to other changes to the surroundings since the original estate was built and the permitted development restrictions were applied, in particular the increase in car ownership, the levels of vehicle parking on the forecourts and along the streets, the widening of some of the driveways and the cases where the front boundaries between the properties now feature established landscaping or hedging. These changes have not been subject to planning control. They are acknowledged but they do not provide justification for the erection of sections of solid boundary fencing where such permanent features are not widespread and do not determine the character of the locality. Moreover, most boundaries and indeed streets will benefit from hedging, tree planting or other soft landscaping because such measures can make an important contribution to the character and quality of urban environments. Some of the soft landscaping in the culs-de-sac I saw is a pleasing sight and gives a greener aspect to the original open plan layout.
9. Despite its low height, the subject fence creates physical enclosure and built form along the boundary, projecting out prominently well beyond the front building line. It is highly visible when approaching along Cottonwood from either direction, fails to complement the setting of the dwellings hereabouts and disrupts the prevailing pattern of open front gardens found along this side of Cottonwood. As a result, I consider the Council were correct to find that the fence is seen as an incongruous, uncoordinated and obtrusive feature in the street scene. There has been material harm caused to the character and appearance of this residential area.
10. It also seems to me that a grant of planning permission in this case could make similar fencing proposals to the front of other nearby dwellings more difficult to resist. Whilst each case should nevertheless be determined on its own merits, this consideration reinforces the arguments against the development.
11. Work has commenced and is ongoing pursuant to a planning permission granted in 2022 for substantial extensions and alterations to 12 Cottonwood. I can understand Mr Baxter's desire to clearly define the common boundary with a fence and to deter any construction vehicles and activities associated with that neighbouring property from spreading onto the block paved forecourt of the appeal property. I do not dismiss this benefit of the fence lightly but it does not

outweigh the harm the development causes to the character and appearance of this locality. I hope another solution can be found, perhaps using some carefully chosen boundary hedging or shrubbery. I noted that the occupiers of some other dwellings in Cottonwood and the other 2 culs-de-sac have achieved the same ends by judicious use of soft landscaping.

12. The appellant has suggested that a temporary planning permission for a period up to 5 years could be given to allow sufficient time for the adjacent householder development and the associated surfacing treatment to the frontage area to be completed. This would allow the visual harm to persist for too long and a trial run is not needed to assess the effect of the development on the area. The Planning Practice Guidance is clear that a condition requiring the demolition of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Moreover, from what I have read, the construction activity could potentially proceed for a considerable amount of time, so there is no guarantee that the planning circumstances will have changed in a particular way by the end of the temporary period.
13. I find on the main issue that the boundary fence harms the character and appearance of this residential area. The development fails to respect Policy UD1 of the Liverpool Local Plan 2013-2033, adopted in January 2022, which sets out a number of important considerations that development proposals should have regard to so as to ensure high design quality that reflects local character and distinctiveness. Amongst other things, development proposals should demonstrate that the means and pattern of enclosure, and any intrinsic rhythms and patterns established by streets, spaces and built form, have been taken into account. This has not been accomplished. Good design is also a cornerstone of the National Planning Policy Framework. In failing to bring about a visually attractive solution that adds to the overall quality of this area and in failing to be sympathetic to local character, good design and a well-designed place have not been achieved.
14. My finding on the main issue is decisive to the outcome of the appeal. There is conflict with the development plan. The harm to visual amenity cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations.
15. For the reasons given above and taking into account all other matters raised and noting the representations made at application stage, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR